

**MEETING OF THE BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

**Waterfront Plaza Hotel
10 Washington Street
Oakland, California 94607
(510) 836-3800**

Thursday, July 26, 2007, beginning at 8:30 a.m.

Board Members Present: Richard Lyons, President; Patrick Tami, Vice President; Kim Blackseth; Gregg Brandow; Arthur Duffy; James Foley; Robert Jones; Mike Modugno; and Ray Satorre.

Board Members Absent: None

Board Staff Present: Cindi Christenson (Executive Officer); Nancy Eissler (Enforcement Program Manager); Cindy Fernandez (Executive Analyst); Rita Lane (Liaison Deputy Attorney General); Gary Duke (Legal Counsel); and Debbie Thompson (Budget Analyst).

1. Roll Call to Establish a Quorum

The meeting was called to order by President Duffy at 8:30 a.m. Roll call was taken, and there was a quorum.

President Duffy welcomed the New Board Members Kim Blackseth and Ray Satorre and swore them in.

2. Public Comment

There was no Public Comment.

3. Election of Board President and Vice President (Possible Action)

Mr. Foley stated that the Nominating Committee was in a unique position, while the Board typically alternates between public and professional members for the Board President, at this time, the Board was left with no public members able to serve a full term as Board President due to Mr. Yu's resignation from the Board, Mr. Jones being in his grace year, and Mr. Blackseth and Mr. Satorre having just been appointed to the Board.

MOTION: Mr. Foley/Dr. Brandow moved to elect Mr. Lyons as Board President and Mr. Tami as Board Vice President.

VOTE: 9-0, motion carried.

Mr. Jones suggested that, in the future, it would enhance the process if each Board member was made aware of the process in which a person is nominated for President and/or Vice President of the Board. He suggested developing a policy on criteria of being elected as President and/or Vice President.

Mr. Jones congratulated Mr. Lyons and Mr. Tami on their election as President and Vice President.

4. Incoming Board President Takes Office

President Lyons presented Past President Duffy with a Plaque and Gavel and thanked him for a job well done as President of the Board.

5. Hearing on the Petition for Reinstatement of Revoked License of Walid Hneiti

The Board heard the Petition for Reinstatement of Revoked License of Walid Hneiti.

6. Hearing on the Petition for Reinstatement of Revoked License of Fred Guenther

Mr. Guenther was not present. It was determined that he had received notice of the time and place of the hearing. Therefore, he was found to be in default.

7. Closed Session – Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)] – This Closed Session will be held immediately following the hearings on the Petitions.

Ms. Eissler reported that the Board met in Closed Session and directed the Administrative Law Judge to prepare the decision on the matter of Dr. Hneiti's petition as heard by the Board.

8. Approval of Delinquent Reinstatements (Possible Action)

MOTION: Mr. Satorre/Mr. Foley moved to approve the amended Delinquent Reinstatements as follows:

CIVIL

James Craig

Reinstate applicant's Civil license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Joowhan Oh

Reinstate applicant's civil and structural licenses once he/she takes and passes the seismic principles examination, the engineering surveying examination, and the Board's Laws and Regulations Examination.

Allan Oto

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

Preston Springston

Reinstate applicant's civil license once he/she takes and passes the seismic principles examination, the engineering surveying examination, the Board's Laws and Regulations Examination, and pays all delinquent and renewal fees.

LAND SURVEYOR

James Robinson

Reinstate applicant's Land Surveyor license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

MECHANICAL

Casey Condron

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Daniel Fitzgerald

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

Brian Marais

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination.

Benoy Samanta

Reinstate applicant's mechanical license once he/she takes and passes the Board's Laws and Regulations Examination and pays all delinquent and renewal fees.

VOTE: 9-0, motion carried.

9. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Duffy/Vice President Tami moved to approve the Amended Handout Comity List.

VOTE: 9-0, motion carried

MOTION: Mr. Foley/Mr. Duffy moved to approve the Temporary Civil Authorization for Justin Franklin for a period of 180 days.

VOTE: 9-0, motion carried.

10. Administration

a. Fund Condition

Ms. Thompson reported on changes included in the Board's fund condition dated June 26, 2007. The Board still projects to maintain an average of 4.5 months in fund reserve for the next three fiscal years.

- Actual reimbursements increased from \$44,473 to 55,280.
- FY 2006-07 projected application fee revenue increased to \$3,547,000.
- FY 2006-07 projected renewal fee revenue decreased to \$5,119,000.

b. Fiscal Year 2006-07 Budget

Ms. Thompson reported that \$8,131,398 is projected to be spent from the Board's FY 2006-07 \$8,297,839 budget leaving a balance of \$172,266 to be reverted back into the Board's Fund.

c. Fiscal Year 2007-08 Budget Change Proposals

Ms. Thompson reported that these BCPs were approved during the Assembly and Senate Budget Hearings. The funding will be available for the BCPs after the Governor signs the 2007 Budget Bill.

d. Fiscal Year 2008-09 Budget Change Proposals

The Applications Evaluation Position BCP and the Land Surveyor fund redirection BCP were submitted to DCA for review June 4, 2007. They will be submitted to Department of Finance in late August.

e. Land Surveyor Position for FY 2008-09

Board staff has revised the State Personnel Board Concept Proposal for the Land Surveyor position to request a revision to the existing SPB Senior Engineer Registrar classification specifications. The revision simply adds land surveying to the minimum qualifications. The next step is Department of Personnel Administration approval.

f. Publications Review

Ms. Eissler indicated the enforcement bulletin had been mailed out to all licensees and everyone on the Board's mailing list.

g. Applicant Direct Payment of National Exam Fees to NCEES

Ms. Thompson briefly reviewed the proposal to have NCEES directly process fees for the Board's national exam applicants. NCEES is still in the process of reviewing information the Board provided on exam population and site locations to determine if they can also administer the Board's exams.

11. Enforcement

Ms. Eissler reviewed the Fiscal Year 06/07 Enforcement Statistics included in the agenda packet. She advised that the Enforcement Unit closed more cases than were opened during the fiscal year. She also advised that John Donnelly had been hired as the new Enforcement Technician and that Julie Baker had been hired as the new Enforcement Analyst; once the budget is signed, the Board will be receiving a new Enforcement Analyst position.

12. Legislative

a. Discussion of Proposed Legislation for 2007, including but not limited to, AB 1025, AB 1393, SB 374, SB 618, SB 721, and SB 1047 (Possible Action)

Mr. Duffy reported on the information contained in the agenda.

b. Regulation Status Report

Mr. Duffy reported on the information contained in the agenda.

13. Technical Advisory Committee TAC Reports

a. Land Surveyor TAC (Possible Action)

1. Log Book for Recording Land Surveyor Applicants' Experience

Vice President Tami reported that Mr. Duke is reviewing the Log Book. Vice President Tami also advised that the LS TAC plans to meet again soon.

b. Board Assignments to TACs (Possible Action)

Ms. Christenson will check the status of all the TACs and report back to the Board at its next meeting.

c. Appointment of TAC Members (Possible Action)

There were no appointments.

14. Liaison Reports (Possible Action)

a. ABET

Ms. Christenson gave the New Board members a brief history of ABET.

b. NCEES

1. Annual Meeting

Ms. Christenson gave the new Board members a brief history of NCEES and its relationship with the Board.

Ms. Christenson stated that the NCEES Annual Meeting will be held the end on August and that she and President Lyons would be attending. She explained that there are several issues that will be brought before the member boards at the Annual Meeting for a

vote; therefore, the Board needs to provide direction to its delegates on how to vote on those items.

Ms. Christenson advised that one of the biggest issues will be the additional 30 units of college course work required to obtain licensure as a professional engineer. She explained that this change in the NCEES Model Law does not affect California applicants because the Board's laws do not require these additional units; however, it could affect the ability of California licensees to obtain licensure in other states that do adopt this new requirement. She explained that the Board had previously opposed this requirement when it was first introduced at a previous Annual Meeting. The issues to be voted on at this year's Annual Meeting deal with implementing the requirements.

MOTION: Mr. Duffy/Mr. Modugno moved to continue the Board's opposition to the "BS Plus 30" requirement and to direct the Board's delegates to convey the Board's opposition at the Annual Meeting.

VOTE: 8-0-1, motion carried, Mr. Jones abstained.

Ms. Christenson reviewed the proposed NCEES Position Statement regarding Certification of Record/As-Built Drawings, as shown on Page 92 of the agenda packet.

Dr. Brandow explained that many states have expressed concerns with professional engineers signing and sealing as-built or record drawings. NCEES has been drafting a position statement to address these concerns.

Mr. Duffy stated that he was very concerned with the proposed language since it appears to release the professional engineer from any responsibility for the work.

Ms. Eissler advised that the proposed language would most likely be in conflict with the Board's existing statutes and regulations regarding the preparation of as-built drawings and the criteria for responsible charge.

MOTION: Mr. Duffy/Mr. Modugno moved to direct the Board's delegates to convey the Board's concerns with the language as proposed.

VOTE: 9-0, motion carried.

Ms. Christenson advised that NCEES will be implementing additional examination security measures for the Civil, Electrical, Mechanical, and EIT examinations. For the Civil, Electrical, and Mechanical examinations, NCEES will be producing three versions of the morning portion of the examinations, as it already does for the EIT examination. NCEES will also be printing separate afternoon modules for the examinations. These steps are intended to reduce the potential of copying between candidates. These changes will be implemented with the October 2009 and April 2010 examination administrations.

Ms. Christenson reviewed the proposed change to the examination policies and procedures regarding Deletion of a Discipline or Module from the Examination Program as shown on Page 95 of the agenda packet. She pointed out that the Member Boards were being removed from the list of groups that could request that a discipline or module be deleted.

The Board took no position on this proposal but directed its delegates to question why the Member Boards were removed.

Ms. Christenson reviewed the proposed changes to EAP 8 regarding Release of Examination Results, as shown on Page 97 of the agenda packet. She advised that NCEES has invalidated the results of six California candidates due to the candidates' failure to comply with NCEES examination procedures. She explained that the Board staff reviewed all of the evidence provided by NCEES and determined that while the candidates did fail to comply with NCEES examination procedures, there was no evidence that they violated the Board's laws regarding examination subversion and security; therefore, it was decided that their results should be released; however, NCEES refused to provide the results to the Board. Ms. Christenson explained that Board staff is very concerned that NCEES is exceeding its authority and taking away the authority of the states to determine whether individuals meet the states' requirements for licensure.

Dr. Brandow explained that NCEES has taken this action to ensure consistency among the states in enforcing the examination procedures.

Ms. Eissler explained that NCEES provides the states with the results of the candidates who are flagged by the collusion analyses and allows the states to make their own determinations whether to invalidate the candidates' results; however, NCEES has refused to

release the results of the candidates who simply signed their answer sheets using an ink pen rather than the approved pencil.

Mr. Tami stated that the states should be provided with the results in all cases of potential violations of the examination procedures and given the discretion to determine whether to release the candidates' results, just as they are with the collusion analyses cases. He stated that it is the right of the states, not NCEES, to determine who has met the requirements for licensure, including whether or not to release examination results. He stated that NCEES is not being consistent with its own procedures since the procedure for the collusion analyses cases states that the examination results are the property of the Member Boards.

MOTION: Mr. Tami/Mr. Duffy moved to direct the Board's delegates to oppose any proposal that allows NCEES, rather than the states, to determine whether to invalidate a candidate's results; NCEES should report all suspected violations of examination procedures to the states for the states to investigate and determine whether to release the results.

VOTE: 7-0-2, motion carried, Dr. Brandow and Mr. Jones abstained.

Ms. Christenson advised that NCEES will be working to combine the SE I and SE II examinations into one structural engineering examination with two 8-hour components by the April 2011 examination administration.

Ms. Christenson advised that NCEES is proposing to establish a Washington, D.C., presence to promote licensure at a national level, as described on Page 113 of the agenda packet.

Mr. Duffy stated that he had concerns with this proposal because it appears that NCEES would be lobbying for issues on behalf of all of the member boards that may not reflect the position of this Board.

MOTION: Mr. Foley/Mr. Duffy moved to direct the Board's delegates to express the Board's opposition to this proposal in its current form.

VOTE: 9-0, motion carried.

c. Technical and Professional Societies

There was no report given.

15. President's Report

No report was given.

16. Executive Officer's Report

1. Administration Report

a. Executive Summary Report

No additional report given.

2. Personnel

a. New Hires

Ms. Christenson reported that we have a new cashier, Jennifer Fyfe. She advised that the cashiers processed the new applications for the October examinations in a very timely manner and expressed her appreciation for their doing so well.

b. Vacancies

Ms. Christenson reported we are still in the process of recruiting for an Office Manager.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Hirano attended the ASCE Members forum.

b. Report on Enforcement Activities

No additional report given.

c. Report on Examination Activities

Ms. Christenson reported that exam results should be released sometime next week.

4. Publications/Website

a. Website Activity Statistics

No additional report given.

5. Other

a. DCA Update

Ms. Christenson reported that the new DCA Director has taken over and that there is a retreat being held in Santa Rosa to work on relationships with boards, bureaus, and DCA.

b. iLicensing

No report given.

17. Approval of Board Travel (Possible Action)

There was no Board travel.

18. Other Items Not Requiring Board Action

Date of Next Board Meeting: September 20 & 21, 2007, Southern California

The September Board meeting will be one day only on September 20, 2007.

19. Closed Session – Personnel Matters, Examination Procedures and Results, Administrative Adjudication, and Pending Litigation (As Needed) [Pursuant to Government Code sections 11126(a) and (b), 11126(c)(1), 11126(c)(3), and 11126 (e)(1)]

- a. Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492)
- b. Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225
- c. Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160
- d. Mario Morales v. Board for Professional Engineers and Land Surveyors, et al., San Mateo Superior Court Case No. CIV 461857
- e. Richard Godina v. Board for Professional Engineers and Land Surveyors, Riverside Superior Court Case No. RIC473474

20. Open Session to Announce the Results of Closed Session

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically; Michael William Foster v. Board for Professional Engineers and Land Surveyors, Court of Appeal Third Appellate District Case No. C050630 (El Dorado Superior Court Case No. PC 20030492); Michael Z. Yevtovich v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS105225; Monique S. Sidaross v. State of California, et al., Los Angeles Superior Court Case No. BC354160; Mario Morales v. Board for Professional Engineers and Land Surveyors, et al., San Mateo Superior Court Case No. CIV 461857; Richard Godina v. Board for Professional Engineers and Land Surveyors, Riverside Superior Court Case No. RIC473474.

Ms. Christenson reported that the Board adopted the results of the take-home examination for the candidates who had previously passed the 8-hour portion of the examinations and approved the cut scores from the April 2007 examinations as follows:

- | | |
|----------------------|-------------------------|
| • EIT | Pass/Fail Only |
| • LSIT | Pass/Fail Only |
| • Chemical | Pass/Fail Only |
| • Electrical | Pass/Fail Only |
| • Mechanical | Pass/Fail Only |
| • Civil 8-hour | Pass/Fail Only |
| • Seismic Principles | Score of 156 out of 292 |

- Engineering Surveying Score of 176 out of 289
- National Structural Pass/Fail Only
- National Land Surveyor Pass/Fail Only
- State Specific Land Surveyor Score of 206 out of 394

Ms. Christenson reported that the Board discussed a request to rescore the State Specific Structural Examination.

Ms. Christenson reported that the Board discussed the NCEES Examination Administration Audit.

Ms. Christenson reported that the Board adopted the Stipulation regarding James Oak.

21. Approval of Consent Items (Possible Action)

(These items are before the Board for consent and will be approved with a single motion following the completion of Closed Session. Any item that a Board member wishes to discuss will be removed from the consent items and considered separately.)

a. Approval of the Minutes of the May 10, 2007, Board Meeting

MOTION: Mr. Duffy/Mr. Foley moved to approve the minutes from the May 10, 2007, Board Meeting.

VOTE: 7-0-2, motion carried, Mr. Satorre and Mr. Blackseth abstained.

b. Approval of Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

MOTION: Mr. Foley/Vice President Tami moved to approve the Candidates for Certification/Licensure (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)

VOTE: 9-0, motion carried.

22. Adjourn

Mr. Jones again expressed his concerns regarding how the President and Vice President are nominated/elected to the Board and the lack of policy/procedures for this process.

The Board adjourned at 2:15 p.m.

PUBLIC PRESENT

William R. Hofferer, CLSA

Bob DeWitt, CELSOC